

AMENDED IN ASSEMBLY APRIL 15, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2693

**Introduced by Assembly Member Wyman
(Principal coauthor: Assembly Member Correa)**

February 22, 2002

An act to amend Section 7031 of the Business and Professions Code, relating to contractors.

LEGISLATIVE COUNSEL'S DIGEST

AB 2693, as amended, Wyman. Contractors.

Existing law, the Contractors' State License Law, creates the Contractors' State License Board within the Department of Consumer Affairs. Existing law authorizes a person who utilizes an unlicensed contractor to bring an action in any court of competent jurisdiction in this state for recovery of compensation paid to the unlicensed contractor for performance of any act or contract. *Existing law also provides, however, that a court find substantial compliance with licensing requirements if the person who acted in the capacity of a contractor or who engaged in the business (1) was duly licensed in California prior to the performance of the act or contract, (2) acted reasonably and in good faith to maintain his or her proper license, and (3) did not know or reasonably should not have known that he or she was not duly licensed.*

This bill would instead authorize a person to bring the above action against a contractor for recovery of compensation paid to the contractor for performance of any act or contract during the period the contractor was not licensed *unless a court determines that the contractor was in*

substantial compliance with licensure requirements. The bill would additionally authorize a court to determine that there has been substantial compliance with licensure requirements if the person who engaged in the business of a contractor or acted as a contractor was previously licensed as a contractor, has applied for a continuance of license, and is awaiting board action on the application.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7031 of the Business and Professions
2 Code is amended to read:

3 7031. (a) Except as provided in subdivision (e), no person
4 engaged in the business or acting in the capacity of a contractor,
5 may bring or maintain any action, or recover in law or equity in any
6 action, in any court of this state for the collection of compensation
7 for the performance of any act or contract where a license is
8 required by this chapter without alleging that he or she was a duly
9 licensed contractor at all times during the performance of that act
10 or contract, regardless of the merits of the cause of action brought
11 by the person, except that this prohibition shall not apply to
12 contractors who are each individually licensed under this chapter
13 but who fail to comply with Section 7029.

14 (b) A person who utilizes the services of ~~a contractor during a~~
15 ~~period when the contractor was not licensed~~ contractor may bring
16 an action in any court of competent jurisdiction in this state to
17 recover all compensation paid to the contractor for performance of
18 any act or contract during the period when the contractor was not
19 licensed, *unless a court determines that the contractor was in*
20 *substantial compliance with licensure as provided in subdivision*
21 *(e).*

22 (c) A security interest taken to secure any payment for the
23 performance of any act or contract for which a license is required
24 by this chapter is unenforceable if the person performing the act
25 or contract was not a duly licensed contractor at all times during
26 the performance of the act or contract.

27 (d) If licensure or proper licensure is controverted, then proof
28 of licensure pursuant to this section shall be made by production
29 of a verified certificate of licensure from the Contractors' State

License Board which establishes that the individual or entity bringing the action was duly licensed in the proper classification of contractors at all times during the performance of any act or contract covered by the action. *Nothing herein shall require any of contractors during the performance of any acts or work executed under any contract covered by the action. Nothing herein shall require any person or entity controverting licensure or proper licensure to produce a verified certificate. When licensure or proper licensure is controverted, the burden of proof to establish licensure or proper licensure shall be on the licensee.*

(e) The judicial doctrine of substantial compliance shall not apply under this section where the person who engaged in the business or acted in the capacity of a contractor has never been a duly licensed contractor in this state. However, the court may determine that there has been substantial compliance with licensure requirements under this section if it is shown at an evidentiary hearing that the person who engaged in the business or acted in the capacity of a contractor (1) had been duly licensed as a contractor in this state prior to the performance of the act or contract, (2) acted reasonably and in good faith to maintain proper licensure, and (3) did not know or reasonably should not have known that he or she was not duly licensed. *In addition, the court may determine that there has been substantial compliance with licensure requirements under this section if it is shown in an evidentiary hearing that the person who engaged in the business or acted in the capacity of a contractor was a previously licensed contractor who applied for a continuance of the license in accordance with Section 7076 and is awaiting board action on the application.* Subdivision (b) of Section 143 does not apply to contractors subject to this subdivision.

~~(f) The exceptions to the prohibition against the application of the judicial doctrine of substantial compliance found in subdivision (e) shall apply to all contracts entered into on or after January 1, 1992, and to all actions or arbitrations arising therefrom, except that the amendments to subdivisions (e) and (f) enacted during the 1994 portion of the 1993-94 Regular Session of the Legislature shall not apply to either of the following:~~

~~(1) Any legal action or arbitration commenced prior to January 1, 1995, regardless of the date on which the parties entered into the contract.~~

1 ~~(2) Any legal action or arbitration commenced on or after~~
2 ~~January 1, 1995, if the legal action or arbitration was commenced~~
3 ~~prior to January 1, 1995, and was subsequently dismissed.~~

O

